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February 12, 2008

HONORABLE MAXINE M. CHESNEY
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA – SAN FRANCISCO DIVISION

Subject: **MARK HARRIS V. UNITED PARCEL SERVICE ET. AL.**
Case No. CV 08-00315-MMC/3:08-cv-00315-MMC
Proposed Stipulation and Order to Stay Case

Dear HONORABLE MAXINE M. CHESNEY:

Enclosed for your review and signature is a proposed Stipulation and Order in the above-entitled case, MARK HARRIS V. UNITED PARCEL SERVICE ET. AL. I have taken the obligation to file the stipulation and order, and to apprise you of the reasons behind the Attorneys' agreements to stay any activity in the case for the short term.

Our office represents Plaintiff Mark Harris, a California resident. PAUL, HASTINGS, JANOFSKY, & WALKER LLP represent Defendant United Parcel Service ("UPS"), an Ohio Corporation. Two individual defendants, both California residents, were just served with the original Complaint filed in Alameda County Superior Court.

The case primarily involves alleged employment issues surrounding Mr. Harris' employment with UPS, and Mr. Harris plead only California causes of action in the Complaint. UPS removed the case to Federal Court based on diversity jurisdiction. Mr. Harris also sued the individual defendants for alleged retaliation under the California Fair Employment and Housing Act ("FEHA").

The California Supreme Court has just heard oral argument in the case of *Jones v. The Lodge at Torrey Pines*, California Supreme Court Case No. S151022. *Jones* will resolve the issue of whether an individual supervisor can be held liable for retaliation under the California Fair Employment and Housing Act ("FEHA"). Currently, the California Courts of Appeal have issued opinions on this issue, but not the Supreme Court.

The resolution of this issue by the California Supreme Court will directly affect the subject matter jurisdiction of the Federal Court. Rather than spend time conducting discovery or doing any other activity on the case now, in light of *Jones*, the Attorneys are proposing to stay any activity on the case, including filing motions for remand or other related items, until the written opinion on *Jones* is issued. We expect that the California Supreme Court will issue that decision by March 9, 2008.

We are respectfully requesting that you sign the enclosed Stipulation and Order so that activity on the case can be stayed until the *Jones* opinion is issued. Thank you in advance for your consideration, and if you need any additional information, please do not hesitate to contact our offices.

Best regards,



Matthew M. Oliveri, Esq.
MEHLMAN-TERBEEK LLP

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